

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2011

IN THE MATTER OF:

Served July 24, 1979

Proposed Regulation Relating to)
LEASES OF EQUIPMENT)

Docket No. 388

INTRODUCTION

By Order No. 1729, served August 5, 1977, and incorporated by reference herein, the Commission instituted this proceeding to solicit comments and suggestions on the advisability of adopting regulations relating to leases of equipment. Only The Gray Line, Inc., 1/ filed comments and suggestions as summarized in Order No. 1965, served February 27, 1979. 2/

In said Order No. 1965, the Commission reached the initial conclusion that leasing regulations are necessary and desirable for several reasons and published proposed Regulation No. 69 for public comment. All carriers currently certificated by the Commission have been made parties to this proceeding and notice was also served on various governmental entities, transit-related associations, attorneys practicing before this Commission, persons reasonably identified as providing rental motor vehicles which might be used in for-hire transportation and certain other persons. In addition, notice was posted as required by Commission Rule 6-02 and was published in the District of Columbia Register. 3/ All persons interested in commenting on the form and content of the proposed regulation were directed to file their representations no later than

1/ Certain operating rights and assets of The Gray Line, Inc., have since been acquired by Atwood's Transport Lines, Inc. See Order No. 1912, served November 6, 1978. For the purposes of this proceeding, Atwood's shall be deemed successor in interest to The Gray Line, Inc.

2/ Said order is incorporated by reference herein.

3/ 25 D.C.Reg. 8314, March 9, 1979.

March 29, 1979. Of 98 persons served by mail, only Blue Lines, Inc. (Blue Lines), and James M. Smith, Inc., (Smith), filed comments. 4/

CARRIERS' COMMENTS

Blue Lines is a carrier certificated by this Commission and the Interstate Commerce Commission (ICC). Its WMATC certificate authorizes charter operations within the District of Columbia and special operations, limited to sightseeing and pleasure tours, generally between points in the District of Columbia and specified portions of northern Virginia. Blue Lines maintains terminal facilities in the District of Columbia and operates (according to its 1978 annual report) 10 owned buses. Blue Lines states that it leases bus equipment, both with and without drivers, as business needs dictate.

Blue Lines raises three objections to adoption of the proposed regulation. First, it is contended that the regulation would restrict or limit the right of the carrier to add to its fleet as the development of its business may require in violation of Title II, Article XII, Section 4(b) of the Compact. 5/ Blue Lines also asserts that advance review of leases is unworkable. Although the three-day determination period set by proposed Regulation No. 69-03(a) is concededly reasonable as is the requirement of subsection (d) thereof for a prompt determination, Blue Lines is concerned that the possibility of hearings or other proceedings could involve long periods of time. This possibility of delay, it is asserted, could hamper the carrier's ability to respond to the public's need for service.

4/ These comments were received at 8:09 a.m. on March 30, 1979, but we shall treat them as if timely filed. Blue Ribbon Bus Rental System Inc., and C. K. L. Bus Rental System, Inc., also made representations concerning their methods of operation but took no position with respect to the proposed regulation.

5/ Said subsection provides, as pertinent, that "[t]he Commission shall have the power to attach to the issuance of a certificate and to the exercise of the rights granted thereunder such reasonable terms and conditions as the public convenience and necessity may require; provided, however, that no terms, conditions, or limitations shall restrict the right of the carrier to add to his or its equipment and facilities over the routes, between the termini, or within the territory specified in the certificate, as the development of the business and the demands of the public shall require." (Emphasis added.)

Finally, Blue Lines expresses the view that we should adopt no regulation that is more stringent than requirements imposed by the ICC on passenger carriers. Blue Lines notes that the ICC does not require advance approval of freight-vehicle leases. Citing Cassens Transport Co. -- Purchase -- Speedway Transports, Inc., 90 MCC 159 (1962), Blue Lines points out that where leased freight equipment is completely under the lessee's control, where the driver reports directly to the lessee, and where the lessee maintains the driver's books and logs, inspects the equipment and accepts claims for damages, the lease arrangement has been upheld by the ICC. The ICC also requires placarding of freight vehicles, lessee maintenance of drivers' medical certificates, receipt by the lessee of requests for service and collection of payments by lessee. Steel Transp. Co., Inc. -- Purchase -- Barry Transports, 93 MCC 773 (1964). In that case, use of lessor's vehicles and drivers was approved because lessee "had actual dominion, control, and responsibility to the shipping public for the operations performed" 93 MCC at 776. Blue Lines also emphasizes that the ICC has never adopted a leasing regulation to govern interstate passenger carriers.

Smith holds authority from this Commission to perform charter operations pursuant to contracts with the National Geological Survey Center and the United States Navy. According to its 1978 annual report, Smith operates four 15-passenger vans and four buses in the Metropolitan District.

Smith, like Blue Lines, believes the proposed regulation exceeds the Commission's authority under Title II, Article XII, Section 4(b) of the Compact. (See footnote 5, supra.) However, should this objection be found invalid, Smith offers several comments on various provisions of the proposed regulation.

Smith believes the applicability of the regulation as established in sections 01 6/ and 11 7/ is incomplete. Section 11 assertedly creates

6/ Applicability. This regulation shall apply to the lease of motor vehicles by any lessee-carrier subject to the jurisdiction of this Commission when the vehicles are to be used by said carrier for the transportation of passengers between points in the Metropolitan District.

7/ Leases to Non-Carriers. Notwithstanding the "applicability" provision of Regulation 69-01, no carrier subject to the jurisdiction of the Commission shall lease any motor vehicle without prior written consent of the Commission to any person for the transportation [for hire] of passengers between points in the Metropolitan District, unless such person holds a certificate of public convenience and necessity or temporary authority issued by the Commission. To obtain such prior written consent, it shall be the burden of the lessor to demonstrate by clear and convincing proof that the transportation to be performed is not subject to regulation by the Commission. (The deletion suggested by Smith is shown in brackets.)

a loophole which encourages regulated carriers to lease to private carriers. Smith would eliminate the words "for hire" from the first sentence of section 11.

Smith agrees that leased vehicles should be treated as if owned by the lessee, but points out that one incident of ownership -- the ability to lease (or, in this case, sublease) equipment for short terms -- is not adequately protected by section 12 8/ of the proposed regulation. 9/ Smith believes that vehicles operated under a long-term lease should also be available for short-term leases as is the case with trip-leased freight equipment pursuant to regulations adopted by the ICC. 10/ The 3-day

8/ Leases for Non-Consecutive Periods of Three Days or Less. Notwithstanding the provisions of Regulation 69-02, 69-03, 69-04, 69-05, 69-07, and 69-08, leases for non-consecutive periods of three days or less shall be permitted without prior filing for approval:

(a) provided that the motor vehicle(s) covered by such lease shall be operated by and under the complete control of the lessee, and no other, for the entire period of the lease, and for all regulatory purposes, including but not limited to insurance, applicable rates and charges, vehicle identification, and motor vehicle fuel and road taxes, such vehicle(s) shall be considered as the vehicle(s) of the lessee,

(b) further provided that such leases shall not exceed in the aggregate 10 days in any calendar year,

(c) and further provided that (1) such leases for vehicle(s) and driver(s) are between carriers, both of which hold WMATC authority to provide the service involved, or (2) such leases for vehicle(s) only are between carriers, both of which hold WMATC authority,

(d) and further provided that the terms of such lease are reduced to writing and such writing is filed with the Commission no later than 10 days following the lease period.

9/ Actually, the prohibition against subleasing and/or lease-back arrangements is contained in section 02 of the proposed regulation.

10/ 49 CFR 1057.4(c)(4)(i).

and 10-day maximums established by proposed Regulation No. 69-12(a) and (b), respectively, are said to be both inimical to carrier flexibility and difficult to interpret. Smith prefers a more flexible standard to accommodate unforeseeable equipment needs resulting from breakdowns, accidents or unavailability of parts.

Smith further suggests that carriers be allowed to file master leases requiring one-time approval, with supplemental addenda to be submitted when equipment is employed under the master lease. Drivers should be allowed to accompany leased vehicles when a short-term lease is between two WMATC carriers or in connection with certain long-term leases.

RESPONSE TO CARRIER COMMENTS

Initially, the Commission finds that adoption of proposed Regulation No. 69 is not precluded by the prohibition of Title II, Article XII, Section 4(b) of the Compact against restricting the right of a carrier to add to its fleet. We are aware, of course, that this particular Compact language is identical to a proviso contained in section 208(a) of the Interstate Commerce Act. 11/ We are also aware that the argument raised by Blue Lines and Smith was also raised when the ICC adopted its regulation (49 CFR 1057) dealing with the lease and interchange of vehicles 12/ and that the argument ultimately was rejected by the United States Supreme Court in American Trucking Assn's. v. United States, 344 U.S. 298, 73 S.Ct. 307, 97 L.Ed. 337 (1953), rehearing denied 345 U.S. 913, 73 S.Ct. 638 (1953).

Appellants further contend, however, that the rules in effect will violate the protections in §§208(a) and 209(b) of the Act of the carriers' right to augment their equipment. We do not agree. The provisos in question are not to be read as blanket restrictions on the Commission's regulatory powers; they are aimed at the restrictions on the increase in volume of traffic through acquisition of additional vehicles. Clearly, a numerical limitation would be invalid, but the Commission's refusal to permit carriers to secure and use equipment which does not satisfy its safety, loading, and licensing rules would not. As we pointed out in Crescent Express Lines, Inc. v. United States, 320 U.S. 401,

11/ 49 U.S.C. 10922(e)(3)(A), formerly 49 U.S.C. 308(a).

12/ Ex Parte No. MC-43, Lease and Interchange of Vehicles by Motor Carriers, 52 M.C.C. 675 (1951).

408, 64 S.Ct. 167, 170, 171, 88 L.Ed. 127, in sustaining a certificate limited to seven-passenger vehicles, since §208 "requires the Commission to specify the service to be rendered, this could not be done without power also to specify the general type of vehicle to be used." We think it equally apparent that regulation of the conditions and circumstances of the use of nonowned vehicles is not a "limitation on the addition of more vehicles of the authorized type". 320 U.S. at page 409, 64 S.Ct. at page 171. [Footnote omitted.] 13/

The same interpretation, we find, is warranted with respect to the above-quoted portion of Title II, Article XII, Section 4(b) of the Compact. 14/ The Commission further finds that it has authority to promulgate the proposed regulation pursuant to the Compact, Title II, Article XII, Sections 1(a), 4(b) and 15.

In our view, the advance approval of leases is workable and beneficial to the public and the carrier industry. As illustrated below, equipment availability on a guaranteed basis will be enhanced, and the danger of a scheduled trip being abruptly cancelled by a carrier due to leased vehicles being recalled by the owner thereof will be virtually eliminated. With respect to the hearing provision of proposed Regulation No. 69-03(d), it should be noted that neither frequent nor extensive hearings are contemplated. We anticipate that virtually all determinations by the Commission under this subsection would be based on the papers filed. In any event, those circumstances which would require a hearing under proposed Regulation No. 69-03(d) are quite likely to parallel closely situations where, in the past, the Commission has instituted investigations pursuant to Title II, Article XII, Section 13 of the Compact.

Turning now to Smith's proposals, we must first decline to delete the words "for hire" from proposed Regulation No. 69-11. 15/ While regulated carriers may choose to lease vehicles for private carriage, such a transaction would be beyond the purview of this Commission's jurisdiction. See Compact, Title II, Article XII, Section 1. Similarly, no liberalization of the restriction against subleasing vehicles is required inasmuch as leased equipment may be sublet with Commission approval. See proposed Regulation No. 69-02.

13/ 345 U.S. at 316-317, 73 S.Ct. at 317-318.

14/ See footnote 5, supra.

15/ See footnote 6, supra.

Smith also advocates expansion of the three and 10-day limitations established by proposed Regulation No. 69-12. Section 12 permits leases for non-consecutive periods of three days or less without prior filing for approval provided, inter alia, such leases do not exceed in the aggregate 10 days in any calendar year. In the normal course of events, a carrier needing more equipment would have advance notice and could negotiate a lease and file for approval prior to operating the leased vehicles. Smith, however, points out that unforeseeable problems such as accidents or in-service breakdowns may require a more flexible standard. We agree. To prevent such hazards from infringing on the 10-day period otherwise allowed, we find that proposed Regulation No. 69-12(b) should be amended to read

Further provided that such leases shall not exceed in the aggregate 10 days (exclusive of occasions where a leased vehicle is required to replace, for a single trip, a vehicle which suffers a breakdown or is involved in a collision, with passengers on board) in any calendar year.

Otherwise, we find that no amendment of the proposed regulation is required.

DISCUSSION AND CONCLUSIONS

The Commission finds adoption of the proposed regulation governing leases of equipment to be necessary and appropriate. We share the concern voiced by Blue Lines and Smith that regulation normally involves some cost to the carrier and, concomitantly, to the public. We also appreciate the convenience which might result if the requirements of proposed Regulation No. 69 could completely coincide with the ICC's (non-codified) requirements for lease and interchange of passenger vehicles. Nonetheless, these objections lack sufficient merit to warrant discontinuance of this proceeding. The substantive provisions of Regulation No. 69, e.g., control of the vehicle and driver by lessee, identification of vehicles, security for the protection of the public and compliance with safety regulations and Compact requirements are not new. As noted in Order No. 1929, several orders of this Commission have dealt with the use of non-owned vehicles within the regulatory context established by the Compact, and our decisions on this subject are substantially coincidental with those of the ICC. Essentially, proposed Regulation No. 69 codifies prior decisions and implements a more feasible system for administering and enforcing the requirements of the Compact.

The procedural aspects of the proposed regulation impose minimal hardship in terms of additional paperwork for the conscientious carrier. The only new requirement is the prefiling of a contract of lease, hardly an outrageous burden. In most cases, approval of the lease contract should be virtually contemporaneous with the filing thereof. Delays beyond three working days should occur only where there exists a bona fide question about the conformance of the lease arrangement with our

requirements. Hence, any lags affecting the ability of a carrier to respond to service requests would be attributable to the questionable legitimacy of the transaction. Moreover, we feel that advance approval is not an unreasonable requirement given the characteristics of the Metropolitan District. While such a requirement may well be inappropriate for ICC carriers given the wide territory they serve and the corresponding unpredictability of traffic, such considerations have little bearing on Compact carriers. Accordingly, there are valid distinctions that mitigate against blind adherence to ICC precedent. It should also be noted that the ICC's codified leasing regulations impose a greater paperwork burden on carriers (e.g., equipment receipts, records of equipment use and escrow accounting) which we are not proposing at this time. The Commission further concludes that, for the reasons and subject to the limitations set forth herein, the adoption of Regulation No. 69 will confer benefits on the public and the carrier industry that far outweigh the costs attendant thereto.

In initiating this proceeding, the Commission announced several purposes to be served by adoption of a leasing regulation. These include (1) promoting the maximum efficient utilization of manpower and equipment consistent with the public interest and the law; (2) informing persons subject to the Commission's jurisdiction what leasing practices may lawfully be conducted; (3) assuring clear identification of the carrier to the public and to the users of the service; (4) identifying the carrier whose tariff rates must apply to an operation; (5) clearly identifying responsibility for an operation; (6) preventing circumvention of the Compact through "rental" of operating rights; (7) preventing cross-jurisdictional abuse of vehicle licensing and registration requirements; (8) assuring equipment availability; and (9) assuring continuity of service through appropriately guaranteed lease pricing. It is our view that a regulation promoting these goals is in the public interest and is consistent with our obligations under the Compact.

This Commission was established to "have jurisdiction coextensive with the Metropolitan District for the regulation and improvement of transit and the alleviation of traffic congestion within the Metropolitan District on a coordinated basis, without regard to political boundaries within the Metropolitan District" ^{16/} Title II of the Compact generally prescribes the manner in which such regulation and improvement is to be accomplished. For example, carriers engaged in transportation covered by the Compact (except taxicabs and certain other vehicles used in performing bona fide taxicab service) are required to obtain a certificate of public convenience and necessity, ^{17/} publish and observe just and

^{16/} Compact, Title I, Article II.

^{17/} Compact, Title II, Article XII, Section 4(a).

reasonable tariffs, 18/ establish through routes and joint fares, 19/ maintain appropriate security for the protection of the public, 20/ and keep certain records and accounts. 21/ Carriers must also comply with Commission regulations designed to assure fair pricing, 22/ rendition of adequate service, 23/adequate insurance coverage, 24/ and safe vehicles and drivers. 25/ This regulatory scheme functions properly only when it is the regulated carrier which controls the instrumentalities and incidents of transportation. Certain leasing practices, which we shall illustrate below, tend to diminish control by the regulated carrier and adversely affect the regulatory scheme of the Compact, the public interest in necessary service and the economic stability of the passenger-carrier industry in the Metropolitan District.

Carriers subject to the Commission's jurisdiction make substantial use of non-owned equipment to satisfy service demands. The largest part of these disbursements undoubtedly occurs in the warmer months (March through September), inasmuch as demands for charter and sightseeing services in the Metropolitan District are highly seasonal in nature. Because it would be uneconomical for a carrier conducting charter or sightseeing services to maintain a peak-season size fleet on a full-time basis, leasing provides the carrier with a more financially viable source of revenue vehicles.

Lease arrangements vary among carriers and situations. While some arrangements are reduced to writing, oral leases are common; some leases are concluded after trips are completed and in many cases unauthorized operators solicit business themselves with or without evidence of agency. It is the more informal and ex post facto arrangements that create conditions in the industry which are inconsistent with those contemplated by the Compact and that constitute evasions of the limitations of certificated authority. A description of several actual leasing situations will illustrate the most prevalent practices.

18/ Compact, Title II, Article XII, Section 5.

19/ Compact, Title II, Article XII, Section 7.

20/ Compact, Title II, Article XII, Section 9(a).

21/ Compact, Title II, Article XII, Section 10.

22/ Regulation Nos. 55 and 56.

23/ Regulation Nos. 59, 61 and 63.

24/ Regulation No. 62.

25/ Regulation Nos. 100-113.

Blue Ribbon Bus Rental System, Inc. (Blue Ribbon), and C. K. L. Bus Rental System, Inc. (C.K.L.), are not carriers. Both companies lease buses pursuant to rental agreements covering only the vehicle. A lessee must provide its own driver, subject to the approval of the lessor's insurance company. If the lessee does not have a qualified driver at its disposal, Blue Ribbon and C.K.L. can provide lists of persons previously approved by their insurance companies to drive their buses. Selection, control, and payment of the driver, however, is the responsibility of the lessee.

Assuming that a regulated carrier was to lease a bus from either Blue Ribbon or C.K.L., it appears likely that the lessor, not the carrier, would be responsible for such items as motor vehicle fuel and road taxes. Although there would be a written lease, it would not specify responsibility for maintenance, repair or even inspection of the vehicle. Because a bus rental company is not directly subject to this Commission's jurisdiction, neither the Commission nor the public has any way to determine if appropriate insurance and safety standards are being observed. 26/ Absent review of the lessor's insurance (which we could not compel), there is no way to determine whether coverage runs to the lessor under contract principles or to the carrier through the driver. The Commission and the public should know who bears the risk of liability and to what extent.

In another situation, Webb Tours, Inc., received temporary authority to transport students and faculty of the Washington School for Secretaries. 27/ Webb, which normally operates English double-deck buses for sightseeing work, leased a motor coach to perform the temporarily authorized shuttle service for WSS. Webb's driver operated the vehicle and Webb controlled the service. Because Webb's supplier was able to enter into a more lucrative arrangement, the oral lease with Webb was abruptly terminated and Webb was forced to resort to use of the English buses. The dissatisfaction engendered by this less-than-optimal mode of transportation was substantial and ultimately necessitated cancellation of Webb's temporary authority and the certification of another carrier to perform the service. 28/

More egregious examples of leasing abuse were presented in Docket No. 294 and led to the revocation of Certificate of Public Convenience and Necessity No. 5-A held by D. C. Transit System, Inc. (Transit). 29/

26/ Cf. Regulation Nos. 62 and 100-113.

27/ See Order No. 1800, served January 23, 1978.

28/ See Order Nos. 1846 and 1847, served May 17, 1978.

29/ See Order No. 1713, served June 22, 1977.

Transit and Washington, Virginia and Maryland Coach Company, Inc. (W.V.&M.), were commonly controlled. ^{30/} W.V.&M. owned no equipment and had no employees. It "operated" one vehicle "leased" from Transit. Transit's personnel booked service orders, drove, maintained and inspected the bus "for" W.V.&M., and Transit paid all expenses for maintenance, repairs, insurance, garaging, fuel and drivers' salaries and benefits. The lease agreement between W.V.&M. and Transit provided that the latter would absorb all revenue and expenses of the former. Clearly, operations were conducted by Transit as a means of extending service into territory not embraced by its Certificate No. 5-A.

Transit also engaged in sham leasing arrangements under the guise of serving as an agent for Blue Lines. Transit's employees would accept orders for charter service and purportedly notify Blue Lines of the request. In every case for which records were produced, however, Transit provided the service with its own equipment and driver. Transit collected the fares for this service, amounting to almost \$130,000 during April and May 1976 alone. At the end of each month, Transit would credit the fares to Blue Lines, less 96 percent of the gross amount to cover "lease charges" for buses and drivers. On many occasions, service was performed that exceeded the scope of Blue Lines' authority or was billed at rates not contained in Blue Lines' tariff. ^{31/} At best, Blue Lines had a right of first refusal on charter orders booked by Transit. Other reasonable conclusions are that Transit merely used Blue Lines name without its knowledge or that Blue Lines actually leased its operating rights to Transit.

Similar abuses are alleged in Washington Met. Area Trans. Com'n. v. Omnibus Corporation (Civil Action No. 78-0048) pending in the United States District Court for the District of Columbia. According to affidavits filed with the Court in support of plaintiff's motion to adjudge the defendant in contempt of the Court's order dated March 24, 1978, Omnibus has engaged in unauthorized use of other carriers' names and/or operating authority to perform transportation pursuant to a contract with the University of the District of Columbia. ^{32/} The affidavits and other documents, if substantiated, purport to show the booking and performance of transportation subject to regulation by this Commission by a company which holds no certificate under the penumbra of authority held by a regulated carrier.

^{30/} W.V.&M. held Certificate of Public Convenience and Necessity No. 4-A.

^{31/} Of course, Transit had neither authority nor published rates for such operations.

^{32/} Inasmuch as this matter is still pending before the Court, the comments herein are set forth for illustrative purposes only.

Other variations on these themes, of course, exist, but little useful purpose would be served by describing them in detail. The examples set forth above amply illustrate the abuses inflicted on the regulatory scheme of the Compact, the regulated carrier industry and the traveling public under the guise of leasing.

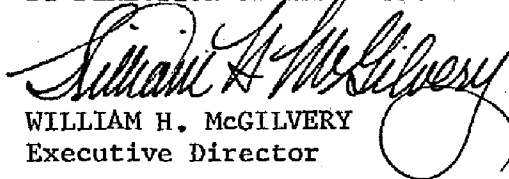
Regulation No. 69, we find, offers a significantly effective procedure for eliminating the evils of abusive leasing practices, for carrying out the provisions of the Compact, and for promoting the positive goals described above.

THEREFORE, IT IS ORDERED:

1. That statements filed by Blue Lines, Inc., and James M. Smith, Inc., are hereby accepted into the record.

2. That Regulation No. 69, as set forth in the Appendix hereto, is hereby adopted and prescribed to be effective on the 31st day following the date of service hereof unless otherwise ordered by the Commission.

BY DIRECTION OF THE COMMISSION:


WILLIAM H. MCGILVERY
Executive Director

WMATC REGULATION NO. 69

GOVERNING THE LEASING OF MOTOR VEHICLES

69. Lease of Equipment.

69-01. Applicability. This regulation shall apply to the lease of motor vehicles by any lessee-carrier subject to the jurisdiction of this Commission when the vehicles are to be used by said carrier for the transportation of passengers between points in the Metropolitan District.

69-02. Contract of Lease. No carrier subject to the jurisdiction of this Commission may charter, rent, borrow, lease or otherwise operate in revenue service any motor vehicle to which such carrier does not hold title, except in accordance with this regulation. No carrier subject to the jurisdiction of this Commission shall operate any motor vehicle as lessee thereof unless the contract of lease has been approved by the Commission. Such contract of lease shall be on a form prescribed by the Commission, and any addenda thereto shall be submitted along with the form. The motor vehicle(s) named in the contract of lease shall be operated by, and under the complete control of, the lessee, and no other, for the entire period of the lease, and for all regulatory purposes including insurance, rates and charges, vehicle identification and motor vehicle fuel and road taxes, such motor vehicle(s) shall be considered as the vehicle(s) of the lessee. During the period of any contract of lease, neither the lessor nor the lessee shall enter into any other contract or subcontract for lease or sublease of the same vehicle(s) without the approval of the Commission.

69-03. Administrative Action.

(a) Review by Executive Director. The Executive Director or his delegate shall review contracts of lease for compliance with the requirements of this regulation. Such initial determination shall be completed no later than the end of the third business day following receipt of the contract for lease.

(b) Approval by Executive Director. Where a contract of lease is acceptable for filing (see Commission Rule 8), and is in conformance with the requirements of this regulation, the Executive Director or his delegate shall approve such contract of lease by signing all copies, retaining the original for the Commission's files, and serving copies upon the lessor and the lessee.

(c) Review by the Commission. Where it appears to the Executive Director or his delegate that a contract of lease may not be in complete conformance with the requirements of this regulation, the Executive Director or his delegate shall forward such contract of lease together with his analysis thereof to the Commission for determination and shall serve notification of such action and analysis upon the lessee.

(d) Determination by the Commission. The Commission shall make a prompt determination on such contract of lease, with or without hearings or other formal proceedings, and shall, upon approval, return such contract of lease to the Executive Director or his delegate for signing as described above, or, upon disapproval, return such contract of lease to the lessee, specifying the reason(s) for disapproval.

69-04. Term of Lease. All contracts of lease shall be for fixed or continuous (open-ended) periods. A lease may be cancelled by the lessor or the lessee by filing with the Commission a notice of termination in accordance with the terms agreed between the parties, as specified in the approved contract of lease. Any lease may be cancelled by mutual consent by filing with the Commission a notice of termination at any time prior to the proposed termination date. All leases shall expire at 11:59 p.m. on the date of termination. Leases may be renewed by filing a new contract of lease as required by Regulation 69-02 when the terms of the lease have been changed, or by filing a notice of renewal when only the date of termination has been extended.

69-05. Lease to be Carried on Vehicle. The lessee shall at all times retain a copy of the lease, as approved, in each motor vehicle being operated under lease.

69-06. Identification. While being operated by lessee, each vehicle must carry a sign displayed on each side of the vehicle, either (a) so placed in a window as not to obstruct the view of the driver or passengers or (b) affixed to the side of the vehicle. Such sign shall be legible at a distance of 50 feet, shall be at least 12 inches in height and 24 inches in width, and shall contain the following information:

LEASED TO AND OPERATED BY:
(NAME OF LESSEE CARRIER)
WMATC CERTIFICATE NO. _____

The lessee shall remove such identification before relinquishing possession of the equipment (Regulation 68-02, promulgated by Order No. 1598, served August 25, 1976, is hereby repealed.)

69-07. Liability Insurance. Coincidentally with the filing of any contract of lease, there shall be filed a certificate of insurance for the operation of the leased vehicle(s) by lessee, or in the alternative

there shall be filed appropriate evidence that there is already on file with the Commission an appropriate certificate of insurance covering all motor vehicles owned or operated by the lessee for the for-hire transportation of passengers.

69-08. Drivers. The lease of a vehicle with a driver provided by the same lessor is prohibited, except as provided by Regulation 69-12(c)(1). For the purpose of this regulation, a driver provided by the lessor shall be deemed to include the lessor, his employees, any person controlling, controlled by or under common control with the lessor, and any person in a contractual relationship with the lessor. The lessee may operate a leased vehicle with a qualified driver who (a) is a bona fide employee of the lessee or (b) is obtained from a personnel supplier having no prohibited relationship with the lessor.

69-09. Inspections. It shall be the responsibility of the lessee, at the time of assuming possession of the leased vehicle(s), to inspect said vehicle(s) for the purpose of determining their suitability for use and their compliance with the safety regulations of the Commission. No lessee shall operate any vehicle which is not in compliance with WMATC safety regulations.

69-10. Compact Requirements. Under no circumstances may any operating authority issued by this Commission to any carrier be leased, rented to, or used by any other person.

69-11. Leases to Non-Carriers. Notwithstanding the "applicability" provision of Regulation 69-01, no carrier subject to the jurisdiction of the Commission shall lease any motor vehicle without prior written consent of the Commission to any person for the transportation for hire of passengers between points in the Metropolitan District, unless such person holds a certificate of public convenience and necessity or temporary authority issued by the Commission. To obtain such prior written consent, it shall be the burden of the lessor to demonstrate by clear and convincing proof that the transportation to be performed is not subject to regulation by the Commission.

69-12. Leases for Non-Consecutive Periods of Three Days or Less. Notwithstanding the provisions of Regulation 69-02, 69-03, 69-04, 69-05, 69-07, and 69-08, leases for non-consecutive periods of three days or less shall be permitted without prior filing for approval:

(a) provided that the motor vehicle(s) covered by such lease shall be operated by and under the complete control of the lessee, and no other, for the entire period of the lease, and for all regulatory purposes, including but not limited to insurance, applicable rates and charges, vehicle identification, and motor vehicle fuel and road taxes, such vehicle(s) shall be considered as the vehicle(s) of the lessee,

(b) further provided that such leases shall not exceed in the aggregate 10 days (exclusive of occasions where a leased vehicle is required to replace, for a single trip, a vehicle which suffers a breakdown or is involved in a collision, with passengers on board) in any calendar year,

(c) and further provided that (1) such leases for vehicle(s) and driver(s) are between carriers, both of which hold WMATC authority to provide the service involved, or (2) such leases for vehicle(s) only are between carriers, both of which hold WMATC authority,

(d) and further provided that the terms of such lease are reduced to writing and such writing is filed with the Commission no later than 10 days following the lease period.